

AG Contract No. KR94-2922-TRN
ECS File: JPA 94-237
Project No.: BR-984(66)P
TRACS No.: SB358 35D
Section: Bridge Scour Evaluation
and Analysis

C94-247

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE STATE OF ARIZONA

AND

THE CITY OF TEMPE

THIS AGREEMENT is entered into 24 March, 1994⁵, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF TEMPE acting by and through its MAYOR and CITY COUNCIL (the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-108 and 28-112 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. Congress has authorized appropriations for, but not limited to, the construction of streets and primary, feeder and farm-to-market roads; the replacement of bridges; the elimination of roadside obstacles; and the application of pavement markings.

4. Such project within the boundary of the City has been selected by the City; the field survey of the project has been completed; and the plans, estimates and specifications have been prepared and, as required, submitted to the Federal Highway Administration (FHWA) for its approval.

NO. <u>19597</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>03/24/95</u>
<u>James R. Hall</u> Secretary of State
By <u>Vicky Brownwood</u>

5. The only interest of the State in the project is in the acquisition of federal funds for the use and benefit of the City by reason of federal law and regulations under which funds for the project are authorized to be expended.

6. The work embraced by this agreement and the estimated cost are as follows: BRIDGE SCOUR EVALUATION AND ANALYSIS.

Estimated Project Cost	\$ 15,500.00
Federal Aid Funds @ 80%	\$ 12,400.00
City Funds @ 20%	\$ 3,100.00

THEREFORE, in consideration of the mutual covenants expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The cost of the work covered by this agreement is to be borne by FHWA and the City, each in the proportion prescribed and determined by FHWA.

2. Therefore, the City agrees to furnish and provide City funds to the State in an amount equal to the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. The City may request the State, as authorized agent for the City, and all at City expense, to perform certain work and prepare certain documents required by the Federal Highway Administration to qualify certain highway, bridge and railroad grade crossing projects for and to receive Federal funds. Such work, consisting of, but not specifically limited to, the review and approval of the City prepared environmental documents, the preparation of the analysis requirements for documentation of environmental categorical exclusion determinations; review of reports, design plans, maps, and specifications; geologic materials testing and analysis; right-of-way related activities (when specifically authorized by, for and on behalf of the City, and at no cost to the State) and such other related tasks essential to the achievement of the objectives of this agreement.

4. Should some unforeseen conditions or circumstances increase the cost of said work required, by a change in the extent or scope of the work called for in this agreement, the State shall not be obligated to incur any expenditure in the project.

III. MISCELLANEOUS PROVISIONS

1. The State assumes no financial obligation or liability under this agreement. It is understood and agreed that the State's participation is confined solely to securing federal aid; that any damages arising from carrying out, in any respect, the terms of this agreement or any modification thereof, shall be solely the liability of the City and that the City hereby agrees to save and hold harmless and indemnify from loss the State, any of its departments, agencies, officers or employees from any and all cost and/or damage incurred by any of the above and from any other damage to any person or property whatsoever, which is caused by any activity, condition, or event arising out of the performance or nonperformance of any provisions of this agreement by the State, any of its departments, agencies, officers and employees, the City, any of its agents, officers and employees, or any of its independent contractors. Costs incurred by the State, any of its departments, agencies, officers or employees shall include in the event of any action, court costs, expenses of litigation and attorneys' fees.

2. The cost of the work covered by this agreement is to be borne by FHWA and the City, each in the proportion prescribed or as fixed and determined by FHWA as stipulated in this agreement. Therefore, the City agrees to furnish and provide the difference between the total cost of the work provided for in this agreement and the amount of federal aid received.

3. This agreement shall become effective upon filing with the Secretary of State.

4. This agreement shall remain in force and effect until completion of the work herein embraced; provided, however, that any provisions in this agreement for maintenance shall be perpetual.

5. This agreement shall be cancelled in accordance with Arizona Revised Statutes Section 38-511.

6. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this agreement.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation	City of Tempe
Joint Project Administration	City Manager
205 S. 17th Avenue - 616E	31 East 5th Street
Phoenix, AZ 85007	Tempe, AZ 85281

9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF TEMPE

STATE OF ARIZONA

Department of Transportation

By Neil G. Giuliano
NEIL G. GIULIANO
Mayor

By Peter L. Eno
PETER L. ENO
Contract Administrator

ATTEST:

By Helen R. Fowler
HELEN FOWLER
City Clerk

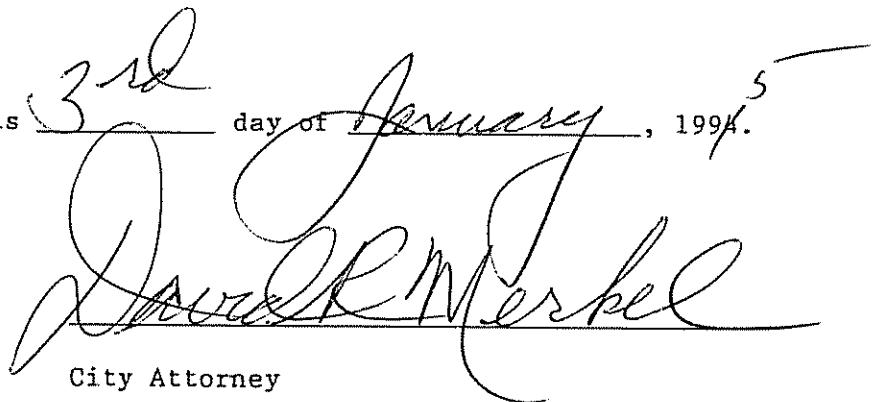
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JPA 94-237

APPROVAL OF THE TEMPE CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION, and the CITY OF TEMPE, and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

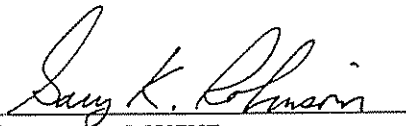
DATED this 3rd day of January, 1994⁵.


City Attorney

RESOLUTION

BE IT RESOLVED on this 14th day of November 1994, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with Tempe for the purpose of defining responsibilities for conducting bridge scour analysis.

Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Contract Administrator for approval and execution.


for: LARRY S. BONINE
Director

CERTIFICATION

I, Helen R. Fowler, City Clerk for the City of Tempe, Maricopa County, Arizona, do hereby certify the attached to be a true and exact copy of Resolution No. 94.79 passed and adopted at the Regular City Council Meeting of December 15, 1994, of the City of Tempe, Arizona.

Dated this 29th day of December, 1994.

A handwritten signature in cursive script, reading "Helen R. Fowler", written over a horizontal line.

Helen R. Fowler, CMC
City Clerk

RESOLUTION NO. 94.79

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF
TEMPE, ARIZONA, AUTHORIZING THE EXECUTION OF
AN AGREEMENT WITH THE STATE OF ARIZONA,
DEPARTMENT OF TRANSPORTATION

WHEREAS, it is to the mutual benefit of the State of Arizona, Department of
Transportation and the City of Tempe to enter into an agreement for bridge scour evaluation
and analysis, and

WHEREAS, the Arizona Department of Transportation has prepared an
agreement setting forth the responsibilities for each party,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF TEMPE, ARIZONA, as follows:

That the Mayor of the City of Tempe is hereby authorized to execute an
agreement with the State of Arizona, Department of Transportation setting forth the provisions
and responsibilities for processing necessary requirements for acquisition of federal funds for
the use and benefit of the City.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA this 15th day of December, 1994.

Neil G. Gunderman
Mayor

ATTEST:

Helen R. Fowler
City Clerk

APPROVED AS TO FORM:

David R. Merkel
City Attorney



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

GRANT WOODS
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR94-2922-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 20th day of March, 1995.

GRANT WOODS
Attorney General

A handwritten signature in black ink, reading "James R. Redpath", is written over a horizontal line.

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8737G/85